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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,230	09/16/2003	J. Patrick Fex JR.	102-1219	2114

7590 03/09/2006

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EXAMINER

KATCHEVES, BASIL S

ART UNIT PAPER NUMBER

3635

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/663,230	Applicant(s) FEX, J. PATRICK	
	Examiner Basil Katcheves	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10,12-19 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-10, 12-19 and 21-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant has amended cancelled claims 2, 11 and 20 in the amendment dated 8/19/05. pending claims 1, 3-10, 12-19 and 21-27 are examined below.

Claim Rejections - 35 USC § 102

Claims 1, 3, 5-7, 9, 10, 12, 14-16, 18, 19, 21, 23-25 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,711,470 to Hartenstein et al. as in the previous office action.

Regarding claims 1, 10 and 19, Hartenstein discloses a method of monitoring and adjusting air quality within a building having a plurality of pressure sensors throughout the building (column 4, lines 22-26), a connection means for connecting the sensors and an analysis means for collecting sensor data (fig. 3) and providing sensor output (fig. 1). Hartenstein also discloses the regulation of pressure on each floor (column 10, lines 15-18 and column 7, lines 18-21). Buildings which have an HVAC system, as Hartenstein's, inherently have a controller (thermostat) which is connected to the HVAC system and controls the atmosphere.

Regarding claims 3, 12 and 21, Hartenstein discloses sensor data input from throughout the building (fig. 3: 60, 82 & 84).

Regarding claims 5, 15 and 23, Hartenstein discloses outside pressure sensors, sensors from floors, or from parts of floors (column 7, lines 18-21 & 26-29).

Regarding claims 6, 15 and 24 Hartenstein discloses the sensors as being located within ducts (column 7, lines 62-65). Ducts are inherently located within floors, ceilings and walls.

Regarding claims 7, 16 and 25, Hartenstein discloses a plurality of sensors throughout floors (column 7, lines 18-21 & 26-29).

Regarding claims 9, 18 and 27, Hartenstein discloses the sensors as being located within ducts (column 7, lines 62-65). Ducts are inherently located within floors, ceilings and walls.

Claim Rejections - 35 USC § 103

Claims 4, 8, 13, 17, 22 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,711,470 to Hartenstein et al. as in the previous office action.

Regarding claims 4, 13 and 22, Hartenstein discloses the acquisition of pressure and other various data to calculate an optimum environment through the processing of data. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hartenstein to include a maximum, minimum and average pressure indicator to provide the end user with more data for temperature adjustments.

Regarding claim 8, 17 and 26, Hartenstein discloses the sensors throughout the building located wherever there is a heating or cooling, but does not specifically disclose the sensors as mounted on walls, floors or ceilings. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hartenstein

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by putting sensors on walls, floors, and ceilings, as common construction practice places them in these areas, in order to sample the air within a room, near the floor or near the ceiling.

Response to Arguments

Applicant's arguments filed 8/19/05 have been fully considered but they are not persuasive. Applicant argues that the instant application is drawn to the control of pressure through a building, as opposed to conventional systems which control the temperature of a building, not the pressure. The applicant should note that conventional buildings control pressure, since pressure is dependant upon the differences in temperatures from one floor to the next, or from one room to the next. The applicant should note that the HVAC system then becomes a pressure regulator, as it maintains the temperature in various rooms of a building. The examiner acknowledges that the purpose of the HVAC system and the controlling thermostat is not intended to control the pressure in the building floors or individual rooms, but the change in temperature, which is controlled by the thermostat, inadvertently changes the pressure. Therefore, the by adjusting the thermostat to make one room colder, and another room warmer, the pressure will change between the rooms. As this happens, the thermostat may be construed as controlling the pressure, since a typical building structure may have several HVAC systems, vents, vent fans, blowers, etc. The applicant should note, as discussed in the interview with the examiner, that there are more detailed means of actually controlling pressure, as discussed by the applicant, which should be incorporated into the claims to differentiate from the prior art. Applicant argues the

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sensors of the instant application are located in areas of the building which are not heated or cooled. However, anywhere in the building may be construed as an area heated or cooled, as the internal areas of the building approach the temperature of an adjacent room or other controlled area.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK


Basil Katcheves

3/7/06

Examiner AU 3635